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June 14, 2007

**BY ELECTRONIC CASE FILING SYSTEM**

Hon David R. Homer  
United States Magistrate Judge  
United States District Court  
Northern District of New York  
James T. Foley – United States Courthouse  
445 Broadway, Room 441  
Albany, NY 12207

Re: *Synca Direct, Inc. v. MultiMedia Dental Systems, Inc. v. Synca*  
Civil Action No.: 06 CV 1263 (LEK) (DRH)

Dear Magistrate Judge Homer:

Rivkin Radler LLP represents the Defendant and Counterclaim Plaintiff MultiMedia Dental Systems, Inc. ("MMD") in the above-referenced action. I write to request that Your Honor waive certain requirements of L.R. 7.1(b)(2) in connection with MMD's application to the Court requesting the issuance of an Order directing the Clerk of the Court to enter Additional Counterclaim-Defendant Synca's default and issue a certificate of default.

On April 20, 2007, MMD filed a Request for Entry of Default against Additional Counterclaim Defendant Synca in accordance with Fed. R. Civ. P. 55(a) and L.R. 55.1. MMD's Request for Entry of Default was supported by the Declaration of James V. Marks, which demonstrated the requirements of L.R. 55.1, to wit, that Synca has failed to plead or otherwise defend the Counterclaim and that the Summons, Answer and Counterclaim were properly served upon Synca on or about March 8, 2007. Nevertheless, as of the sending of this letter, a default has not been entered against Synca and a certificate of default has not been issued.

Since MMD has complied with the requirements for entry of a default against Synca under both Fed. R. Civ. P. 55(a) and L.R. 55.1, but the Clerk of the Court has not entered a default or issued a certificate of default, MMD intends to make an application to the Court requesting the issuance of

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an Order directing the Clerk of the Court to comply with Fed. R. Civ. P. 55(a) ("When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default.").

L.R. 7.1(b)(2) requires MMD to make good faith efforts to resolve or reduce all differences between it and Synca relating to this issue, and also requires MMD to request a conference with the Court before filing a motion on this issue. MMD respectfully requests that, given the relief sought, the Court waive these requirements because Synca has not appeared in this action and MMD is entitled to the entry of a default.

Thank you for your consideration of this application.

Very truly yours,

RIVKIN RADLER LLP

A handwritten signature in black ink, appearing to read "JMPoe", written over the printed name of Joseph K. Poe.

Joseph K. Poe

Enclosure

cc: Randy M. Friedberg, Esq.  
Olshan Grundman Frome Rosenzweig & Wolosky LLP  
Attorney for Plaintiff  
**BY ELECTRONIC CASE FILING SYSTEM**